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The Impact of Pressure Groups on the Western Australian School Education Bill 1999 : A Case Study

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The Impact of Pressure Groups on the Western Australian School Education Bill 1999: A Case Study

by

Sharan Kraemer, BA

A thesis submitted in partial fulfilment of the
requirement for the award of

Bachelor of Arts (Honours) (Politics and Government)

**in the Faculty of Community Services, Education
and Social Sciences, Edith Cowan University**

Date of submission: 14 November, 2000

DECLARATION

I certify that this thesis does not, to the best of my knowledge and belief:

- i. incorporate without acknowledgement any material previously submitted for a degree or a diploma in an institution of higher education;
- ii. contain any material previously published or written by another person except where due reference is made in the text; or
- iii. contain any defamatory material.



Sharan Kraemer

14.11.00

Date

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ABBREVIATIONS

ACSSO	Australian Council of State Schools Organisations
ACT	Australian Capital Territory
ALP	Australian Labor Party
ALSWA	Aboriginal Legal Service of Western Australia
AMA	Australian Medical Association
ATSIC	Aboriginal and Torres Strait Islander Commission
CEO	Chief Executive Officer
Dem	Australian Democrats
DSC	Disability Services Commission
Greens	Greens WA
HBLN	Home Based Learning Network
The Hon	The Honourable...- Courtesy Title for Government Ministers and Members of the Legislative Council
Lib	Liberal Party
MLA	Member of the Legislative Assembly
MLC	Member of the Legislative Council
Nat	National Party
P & C	Parents and Citizens Association
P & F	Parents and Friends Association
SSTU	State School Teachers Union
WACSSO	Western Australian State Schools Organisations
WAPD	Western Australian Parliamentary Debates

ABSTRACT

This study examines the influence which pressure groups, unelected, unrepresentative groups, exert on the legislative process. This thesis studies the issue in relation to the Western Australian School Education Bill 1999, and the action of four pressure groups – the Aboriginal Legal Service of Western Australia, the Disability Services Commission, the Home Based Learning Network and the Western Australian Council of State Schools Organisations.

The re-writing of the School Education Bill 1999 presented an opportunity to study pressure group activity against the background of two unusual circumstances: the first being that the updating of the seventy year old Act was the occasion for the Government to create a modern and inclusive legislation, and to achieve this, it utilised a Green Bill to encourage community consultation and participation, including that from the pressure groups; and the second, was that, for the first time in the history of the State's legislature, the Legislative Council was not controlled by the conservative parties, and the conservative Government faced the certainty of increased scrutiny of its legislation in the Upper House. Both of these circumstances encourage activity from pressure groups, and it is the purpose of this study to examine whether the pressure groups had an undue influence in the formulation of the legislation.

This is done through the establishment of three criteria to assess their effectiveness. The first relates to the specific activities of the pressure group, and how effective they are; the second refers to the choice by the pressure group of the most appropriate methods of applying pressure, and why they

are effective; and the third relates to the pressure groups' choice of the time in the legislative process to have the greatest impact, and when they are effective.

The thesis assesses the Australian literature which is relevant to the three criteria, and then details the significance of the Bill and the Consultative or Green phase, including the role played by the media to educate the public in making informed contributions to the debate. The study then moves to the Parliamentary phase where vigorous debate occupied a great deal of the Parliament's time in both Houses.

It will be shown that while a great many changes to the draft Bill occurred during the Consultative phase, there were only minor alterations during the Parliamentary stage. It will be shown that the Government was able to disregard more than two thirds of the amendments from the Upper House, and in fact only accepted amendments to those clauses of the Bill which it had anticipated.

The conclusion of this thesis is that pressure groups can have success in modifying aspects of legislation/policy when it chooses the right tactics and when it applies them before the Bill is tabled in the Parliament. Even in the case of the School Education Bill 1999, when public contributions were encouraged, the government only made alterations which it had foreseen, and which it was prepared to accept, thus showing that pressure groups did not have an undue influence on the legislation.

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Introduction: Why Study Pressure Groups and the Western Australian School Education Bill 1999?

Education affects all people; and the quality of their lives and livelihoods is coloured by the knowledge and understanding gained through their education. The quality of a society's education system is a reflection of the values of the society. The attitudes to education, enshrined in legislation, proclaim the ideals of a government. The School Education Bill 1999 was a significant piece of legislation in Western Australia, and as a consequence it was a matter of great interest to the community.

Governments do not readily engage in thorough reform of education such is the magnitude of the task. When the Government embarked upon reform in 1994, the *School Education Act 1928* was seventy years old and was written for a different era. The Western Australian community was in need of an updated and modern Education Act to reflect its attitudes and requirements. The re-writing of such legislation presented the Government with an historic opportunity. It naturally attracted a great deal of attention, comment and contribution from people and groups at all levels of the society. Some groups were loosely formed and came together on an *ad hoc* basis, while others had formalised structures and existed independently of contentious issues. These groups are called pressure groups and it is the extent of their influence which forms the central problem of this thesis.

The Education Bill provided a rare set of circumstances in which to examine long standing issues about pressure groups: the extent to which they can exert influence

over policy; the manner in which this is done; and the phase within the policy/legislative process during which influence is best exerted. In the case of the School Education Bill 1999, pressure groups were invited into the process through the extended and open public consultation period accompanying the Bill.

Pressure groups can be social groupings who come together for mutual support or they can be well-organised bodies who exist to exert pressure on Governments on behalf of their members (Coldrey, 1992, p7). Some pressure groups are affiliated with political parties and are said to have an Insider Status, which assists their agendas in being adopted by political parties and as Government policy (Marsh, 1983 as cited in Warhurst, 1997, p114; Jaensch, 1991, p176). The other group, the Outsiders, need to choose not only the best tactics for the best result, but the optimum entry point in the process for the optimum result. The weight of critical opinion holds that government policy has already been decided in the party room or in the Cabinet room (Jaensch, 1991, p174; Zeigler, 1980, p13). For the School Education Bill 1999, the Government created a unique situation because it had opened the process to public consultation, which gave all groups the chance to bring pressure to bear at all stages of the Bill.

The pressure groups chosen for examination in this thesis are the Aboriginal Legal Service of Western Australia, (ALSWA); the Disability Services Commission, (DSC); the Home Based Learning Network, (HBLN), the overarching body representing the burgeoning group of people who educate their children at home; and the Western Australian Council of State Schools Organisations, the umbrella body for parent groups in the State, (WACSSO). These were major groups operating to influence the

Bill; each concerned with different aspects of the Bill and each able to call upon a large network of committed individuals for support.

The Aboriginal Legal Service of Western Australia (ALSWA) is an incorporated body which employs approximately one hundred staff and has offices in sixteen locations in Western Australia. An Executive Committee, consisting of Senior Management and elected Aboriginal community representatives from around the State, and Aboriginal and Torres Strait Islander Commission (ATSIC) Regional Council Chairpersons, governs ALSWA and makes policy decisions. The Committee meets four times per year, with *ad hoc* decisions taken by the Senior Management – the CEO, the Deputy CEO, and the Director of Legal Services. It is funded from the ATSIC budget for Law and Justice, with extra money to address specific issues or special projects. Issues may be raised by Executive Committee members, with the Committee directing priorities: for example, between legal imperatives, or community issues either raised or anticipated (Colleen Haywood, personal communication, 8 November 2000).

ALSWA was formed to provide specific legal services for Aboriginal people. The need for such a service became increasingly obvious in the late 1960s. Aboriginal people were severely over-represented in the criminal justice system and the mainstream system had failed to acknowledge the specific needs of Aboriginal people and to deal with them in a culturally-appropriate manner (ALSWA, *Striving for Justice*, p2). ALSWA had a particular interest in the School Education Bill because many of its clients had, in the past, been involved in the juvenile justice system.

through such matters as truancy. It was felt that there was a need to change the clauses whose consequences led to fines or court appearances. Aboriginal people made up a disproportionately large number of this group (Colleen Haywood, personal communication 8 November 2000).

ALSWA was selected because it is a well organised body which deals with legal matters for the Aboriginal community. The School Education Bill contained a number of clauses with legal consequences, and although it was originally not included in the release of the Green Paper (Barnett, letter 27 October 1997), ALSWA made a submission to endeavour to protect the legal interests of its constituents.

The Disability Services Commission, (DSC) is a Government Body which provides for the needs of people with disabilities in Western Australia. The Disability Services Act 1993 outlines the two key functions of the DSC, which are: to promote the principles that people with disabilities have the same rights as other members of society to participate in, direct and implement the decisions which affect their lives; and to receive services in a manner which results in the least restriction of their rights and opportunities (Coordinating Response Committee Discussion Paper, August 1997, p1). The DSC is jointly funded by the State Government contributing 85% and the Federal Government, 15% (personal communication, David Colvin, 19 October 2000).

The DSC employs around fifteen hundred to two thousand full- and part-time people to deliver services to approximately seventeen thousand recipients either directly or

indirectly through an agency, for example, community groups small, or large like the Activ Foundation, or small family based groups. The disability community is large due to the number of people whose lives are affected by disability, that is, one in five with a disability, and their families and support networks (David Colvin, personal communication, 13 October 2000). There is a quarterly newsletter which encourages contributions from the disability community as well as a website and email addresses for prompt communication.

The Corporate Executive is the key to policy development in the DSC with the Board the ultimate body to endorse policy. There is also a Ministerial Advisory Council which has direct access to the Minister. A Coordinating Response Committee, drawn from the DSC, community representatives and the disability sector was established to address the issues arising from the School Education Bill (*Update*, August/September, 1997, p6).

This body was chosen for the case study because it is a large Government Agency and within its charter, has the responsibility to ensure other Government bodies create suitable legislation to include the needs of the disability community. It is not a pressure group as such and normally deals with other agencies at the Ministerial level.

The Home Based Learning Network, (HBLN), is a non-profit organisation supporting those people who want to educate their children at home. It has a committee and a constitution, and it is funded by the payment of a membership fee

of two dollars. There are around two hundred and seventy five members who also pay an annual subscription of twenty five dollars for the HBLN newsletter (Sue Lang, personal communication, 11 October 2000). Monthly meetings are held in Perth, and there is also an Annual General Meeting in January. Members may raise issues of concern for discussion by the committee which then decides upon a course of action (Sue Lang, personal communication, 11 October 2000). The group has a disparate membership and has formed as an educational and social support for families who have chosen to leave the mainstream education system (Sue Lang, personal communication 11 October 2000).

This group was chosen because it was a novice as a pressure group and it created an impact on the public consciousness through its use of the media. It does not see itself as a single pressure group, rather a loose amalgamation of parents whose only feature in common is that they have chosen to educate their children at home. The members come together to support one another if needed and to act as a social network for their children (Sue Lang, personal communication, 11 October 2000).

The Western Australian Council of State Schools Organisations (WACSSO) represents the parents from over six hundred and sixty State Schools, which amounts to hundreds of thousands of parents. The Parents and Citizens Association (P&C) from each State School, is affiliated with WACSSO and belongs to a District Council, which corresponds to the Education Department Districts, and each District has a State Councillor who represents them at WACSSO Council meetings. There is also an annual conference at which WACSSO policy is set (Dianne Guise, personal

communication, 19 October 2000). The body is financed through a small grant from the Government with a salaries component to pay for full-time office staff – an executive officer, and administrative officer and a liaison officer with responsibility for training (Dianne Guise, personal communication, 19 October 2000), and regular subscriptions from affiliates depending on their size (WACSSO Constitution and Rules, 1998, p2). It also has the use of office space in the Education Department building in Royal Street, East Perth. It has a history of support for educational matters which affect the conditions for the children at Government Schools. For example, it has consistently opposed State Aid for private schools since 1959 (Gallagher, 1975, p14).

WACSSO was selected for this case study because it is a structured and well-organised body, which has affiliations to a national body, the Australian Council of State Schools Organisations, ACSSO. It also has a history of speaking out on contentious issues relating to education, and has always had a good working relationship with the Government of the day. Being the peak parent body, WACSSO was the first pressure group to be selected for this case study.

Although there is general understanding in the community of the role of a pressure group, there is very little Australian literature available which provides criteria for assessment of pressure group activity. It is the intention of this paper, through the case study of four pressure groups, to provide a framework against which to measure the success of the activities of the pressure groups studied in relation to the School Education Act 1999.

The criteria will relate to three aspects of pressure group activity: firstly to the specific activities of the pressure group, and how effective they are; secondly to the choice by the pressure group of the most appropriate methods of applying pressure, and why they are effective; and thirdly to the pressure group's choice of the best time in the legislative process to have the greatest impact, and when they are effective. The actions of the pressure groups in this study will be examined and assessed against these criteria.

For the purpose of this thesis, the School Education Act 1999, which gained assent on 2 November 1999, is referred to as a Bill. The term 'Bill' implies an understanding in the mind of the reader, that the legislation is still in a malleable form and able to be changed. Moreover, when the Bill was first introduced, it was called the School Education Bill 1997, however, due to the length of time which the Bill took to complete its passage through the Parliament, its name was changed to the School Education Bill 1999. For the reason of simplicity, the latter name has been used throughout.

Chapter One examines the literature associated with pressure groups with particular emphasis on an explanation of pressure groups. The chapter sorts the literature into the three problems being tested in this thesis: that is how pressure groups are effective; why are they effective; and when in the legislative/policy process they are effective.

Chapter Two looks at the combination of elements which contributed to the School Education Bill being the most widely consulted and the most contentious pieces of legislation in Western Australian history. It will cover the history and significance of the Bill, the Green Paper process, and the contentious elements of the Bill, as well as the role played by the media.

Chapter Three studies the actions taken by the four pressure groups during the consultative stage of the Bill, and the steps taken by the Government to bring the Bill to the attention of the community.

Chapter Four investigates pressure groups activity during the Parliamentary phase of the Bill, ranging from the Legislative Assembly, through the Legislative Council and the Standing Committee for Public Administration and back to the Assembly.

The Conclusion reiterates the progress of the Bill and the actions of the pressure groups, as well as the features of this Bill which allowed the pressure groups unprecedented access to its development. The Conclusion assesses the pressure groups' actions against the three criteria, and evaluates their effectiveness in changing Government legislation.

Australian society is characterised by the existence of many thousands of groups which are independent of government and which attract people with shared interests and activities with the aim of influencing the policy process (Lovell, 1995, p249). Pressure groups provide an invaluable service to governments, allowing problems to come to the surface quickly, and permitting governments to uncover community feelings and, moreover, to avoid unpleasant decisions by playing one group off against another (Aitken, 1989, p137). Richardson writes: "a fundamental assumption of any society which claims to be a democracy is the active participation of its citizens in the process of governing. Indeed liberal democratic theory argues that the active participation of citizens is not only a good in itself, but is also functional to the success of a liberal democracy." (Richardson, 1995, p61). This assertion is echoed by Beresford who claims that interest groups are the very stuff of participatory democracy because they encourage participation, they provide grassroots perspectives to governments, and they allow for the input of policy expertise (Beresford, 2000, p126).

There are important questions to be studied in relation to pressure groups. This thesis will make a contribution to the understanding of pressure groups by testing three problems: how effective they are; what methods they use which ensure their effectiveness and; when in the policy/legislative process they are most effective. A review of the literature will examine the three problems to clarify current understanding, and to highlight any omissions.

This chapter will examine the recent writings in the areas of the problems to be addressed. First, however, it would be useful to look at an explanation of pressure groups.

What are Pressure Groups?

Matthews says pressure groups are "any organised groups which seeks to influence public policy without itself taking over the reins of government." (Matthews, 1997, p270). Over the last three decades, their development has opened the democratic process to greater influence from small, unelected bodies, both between elections and at election time. Their significance to governments in the formulation and administration of policy is increasing, some say vital: "Interest groups are central to policy making." (Warhurst, 1997, p111). Warhurst also cites Peter Westaway who says: "They fill the gaps in a system which otherwise only gives us a crude choice between two sets of leaders." (Warhurst, 1990, p306).

The field is crowded with political scientists who are keen to give an explanation of pressure groups. Maddox cites British Political Scientist, Professor John Plamenatz whose words in 1958 establish an understanding of the place of pressure groups in the policy/legislation process, and provide a backdrop for the writings of later scholars:

Elections are only part of the democratic process; they decide no more than who shall have the power on roughly what terms. ... The more exacting demands are made on the citizens' behalf in other ways; they

are made by pressure groups, which are independent of one another, and of the government, and are also sensitive to the needs and hopes of their clients. Their influence depends on the support of the people they speak for, and governments must take notice of them or risk offending a large body of voters.

[John Plamenatz, 'Electoral Studies and Democratic Theory: A British View', *Political Studies* vol.6, no.1 (1958), p 9] (Maddox 1991 p365).

Others claim that pressure groups are formed to fulfill a need in the community which is not met by the established institutions. Zeigler says "organised groups begin in response to changes in the relationship between individuals when existing institutions are inadequate to provide a means for the re-establishment of stability." (Zeigler, 1980, p3). A.F.Bentley, an American political scientist, strongly supported the presence of pressure groups in the policy making process. Aitken *et al* rephrased his aphorism: "Groups are just people acting in politics to secure goals which they think are important, and nearly always acting on behalf of other people whom they say, think these goals are important too." (Aitken, 1989, p139).

Pressure groups perform a valuable function in articulating their members' demands at all times. During election campaigns, the mind of the electorate is turned towards policies and platforms. Between elections, however, the pressure groups serve to maintain the focus on these matters. Maddox cites Plamenatz' succinct comment which illustrates the need for pressure groups between elections:

The voice of the people is heard everlastingly, between elections much more than at them, through these spokesmen; and their demands are not vague but precise. It is because there are elections from time to

time that the precise demands continually made on the people's behalf are always listened to. Elections are important not only for what happens at them, but for what happens because of them.

John Plamenatz, 'Electoral Studies and Democratic Theory: A British View', *Political Studies* vol.6, no.1 (1958), p 9] (Maddox 1991 p365).

The issue of the legitimacy of pressure groups was addressed by no less an authority than J.J. Rousseau in his work "*The Social Contract*" in which he says: 'the General Will is consistent with the interests of all and not the interests of a sector. Where subsidiary groups do exist, their numbers should be made as large as possible and none should be more powerful than its fellows.' (Rousseau cited in Wilson, 1990, p2). This highlights another issue, which is: how do governments ensure that there is a balance between the wishes of the wider community and the well-organised active pressure groups?

There has been an increase in pressure group activity in Australia in recent years. It has always been present in the form of a 'corporatist' style of policy-making where there are close relations between governments and a limited range of large interest groups at both macro and micro level (Warhurst, 1997, p112). For example, In the 1970s, the groups which had influenced government policy were large, well organised and very well funded like the Australian Council of Trade Unions (ACTU) and the National Farmers Federation (NFF). They had close links with governments and acted as advisory bodies. Indeed they were the forerunners to the myriad of separate and impartial advisory bodies which governments establish to lend expertise to the policy-making. Byrt saw these groups as *de facto* pressure groups,

rather than completely independent forces, because they were so closely linked to political parties (Byrt, 1990, p52).

Over the last three decades, the number and type of pressure groups have increased dramatically in Australia. In 1987, the first comprehensive guide to pressure groups in Australia was compiled. It had 2500 entries and did not include any trade unions or government bodies or many professional associations (Macnamara, 1987, p1). In 1995, Marsh noted the proliferation of interest groups citing the 1990 Green Guide listing twelve hundred environmental groups nationwide, the 1991 Ethnic Guide listing two thousand four hundred and fifty in one hundred and seven ethnic communities, the Directory of Commercial Associations for 1988 listing eleven hundred business groups, the welfare sector estimated to embrace thirty seven thousand organisations and countless thousands listed in each state (Marsh, 1995, p56). Not every group is an active pressure group and in fact most are small interest groups with only one feature in common. However, it remains that they do exist in increasing numbers with the potential to become active.

It has been shown that the number of pressure groups have grown significantly. One of the effects of the increase in numbers is an increase in the activities and in the amount of pressure brought to bear by the interest groups, who have policy expertise and grassroots perspectives. This is the inevitable result of larger numbers of individuals participating in the political process. This contrasts with the position two decades previously when Zeigler wrote that the interest group is only consulted in an ancillary capacity for technical expertise after the bureaucracy has effectively settled

on a policy (Zeigler 1980 p16). Indeed, Almond and Verba presaged the rise in prominence of the interest group movement when they conclude in their 1965 study: "If a citizen is a member of some voluntary organisation, he is involved in the broader social world and he is less dependent on and less controlled by his political system." (Almond and Verba 1965 p345).

Pressure groups are now an integral component of the legislative/policy process. It is important to be able to assess how effective they are, what methods are the most successful and when in the legislative/policy process they have the greatest impact.

How Effective Are Pressure Groups?

Pressure groups are seen to have been effective and to have achieved their aims if they can bring about changes in Government policy or legislation. There are several indicators of success among pressure groups. One is the high level of public credibility and respectability, which some groups are able to use to enhance their demands of Government policy. The Australian Medical Association, (AMA), is one example (Jaensch, 1991, p178). Byrt says that this type of pressure group attempts to convince governments and communities that a particular line of action is not only in the interests of its members but is in the public good (Byrt, 1990, p52). This has become a more common method of operation in recent years. There also exists a school of thought which asserts that the pressure groups which use this tactic must also present their information or demands in the terms which the government themselves use. Warhurst notes that to achieve success, a pressure group must

present its case using the same language and terminology used by political leaders. To illustrate this point, Warhurst cites the lack of success of the Australian Tourist Industry Association in its attempt to influence Liberal Party policy. When Dr. John Hewson, the Leader of the Liberal Party in the period before the 1993 election, was addressing them in October 1992, he accused them of making a submission which was a "blatant case of vested interest" (Warhurst, 1997, p115). According to the agreed definitions, this is the expected role of the pressure groups. The submission was dismissed because, in Warhurst's view, it failed to use the correct terminology, although commentators at the time referred to Dr.Hewson's aggressive attitude towards interest groups (Kelly, 1992, p13).

One factor which contributes to the effectiveness of a pressure group is their status. As has previously been mentioned, the groups which are consulted by governments are on the inside and are said to have "Insider Status". A pressure group which can win the support of a major party and have its aims written into the policy platform of the party, can have policy success when the party has electoral success (Jaensch 1991 p176). One such example is the ACTU, which gave a commitment to the Australian Labor Party to control wage demands, which in turn assisted in the credibility of the ALP in the 1983 Federal election. When the ALP was elected to office, the ACTU knew that it could rely on a Labor Government to provide increases in the social wage. (Matthews 1997 p288). Writing in *Time Magazine*, journalist Tim Blair claims that all of those groups which had established relationships with the Labor Government over thirteen years, groups representing the environment, education, Aboriginal issues, were excluded from the process of consultation leading up to the

first Howard/Costello budget. He cites the Industrial Relations Minister, Peter Reith who defended this apparent exclusion with the words: "The interest groups were not excluded but we didn't work on the basis that theirs was the only point of view." (Blair 1996 p48,49). They had become, through a change in Government, members of the other status group, the Outsiders. That is, groups who try to influence governments by getting the media and the public onside, operating outside conventional norms to force favourable outcomes. This terminology is seen as a useful distinction by all of the writers in this field (Matthews, 1997, p277; Beresford, 2000, p119; Davis, 1988, p100; Warhurst, 1990, p302).

A pressure group which wants to achieve its aims, also may have to be flexible in its choice of methods, or modify its tactics to fit the circumstances. For example, a rural pressure group through its informal links with the National Party, expects and often receives what it wants when the Coalition is in power. When the Coalition is in Opposition or relations are strained between the Liberals and the Nationals, the rural pressure group will find that access to policy-making is limited. Unless it changes its approach, the rural pressure group will achieve none of its aims (Jaensch, 1991, p178). The ability to change is also a sign of the effectiveness of a pressure group.

A further indicator of the effectiveness of pressure groups is the electoral power which they command. If a pressure group does not affect the Government's result at election time, it may not have the power to effect any changes in Government policy/legislation. There is little discussion of this area in the literature. The Hon. Derrick Tomlinson MLC, (Lib) touches on it when he says: "Over-riding all the

philosophies and dogma of these political players will be their estimation of the electoral opportunity." (Tomlinson, 1998, p61). This case study will examine the successes of the pressure groups and assess the importance of electoral impact to their effectiveness

Pressure groups also achieve their aims through a careful selection of targets. Each group and each cause warrant different methods and different targets. In reality, therefore, the most effective area of contact for pressure groups seems to be the Executive because, by definition, the Executive controls the government and the government controls the Parliament.

The proliferation of interest groups has led to concerns about an inevitable obstruction of the legislative/policy process which could be regarded as a factor which could diminish effectiveness. Warhurst cites criticism from within government, from academia, from political parties and from interest groups themselves (Warhurst, 1997, p114). They are critical of the influence groups had in the policy-making process. Indeed, in the early 80s, Marsh's phrase "pluralist stagnation" became the fashionable term for blaming the interest groups for policy problems. This refers to the thwarting of the government's policy making through its inability to mobilise the necessary support to carry any proposal through to successful execution. Marsh claims there is an excessive number of interest groups with considerable power, which complicate the task of achieving concerted action towards common national problems; and there is a burgeoning in attitudes favouring the need for participation which obstructs the role of the political parties as the key decision-makers (Marsh, 1995, p102).

Marsh also argues that these organisations share the role of political representation with political parties (Marsh, 1995, p100). He says that the role of government has changed, with a changing pattern of legislation, new developments in the machinery of government, new complexities relating to the strategic and sectoral policy-making and co-ordination, and even a new political complexity with regard to accumulating the authority for action.

A further indicator of the effectiveness of a pressure group is its organisation, its structure and its financial stability. Maddox claims well organised and financially sound groups can appeal more effectively than can small, fragmented disadvantaged groups which lack money, expertise, and coherence. He adds that a government needs to ensure that a balance is struck so that all the decisions are not made in favour of the better organised group (Maddox, 1991, p372). The question left unanswered is how is the government to ensure that a fair balance is achieved and a fair decision is made? It is the contention of this thesis, that the case study of the School Education Bill highlights the effectiveness of the Green Paper process to actively encourage public contributions from the wider community, not only the pressure groups, which therefore helps to ensure a fair balance is reached.

The Methods Used by Pressure Groups

The presence of pressure groups in the legislative/policy making process of government is well known. Outside the Parliament, groups can apply to their local

Member, raise awareness in the community of their concern through public meetings, write Letters to the Editor, use talk-back radio, or gain the support of a media outlet to publicise their concern. These tactics may have limited success, because they are do not deal directly with the policy making areas of government, and their impact may be slight. Within the Parliamentary process, a pressure group may be able to bring influence to bear on Opposition Members, both during the normal debates and during the Committee debates.

Aitken *et al* write that other methods include:

meetings, advertisements, letters to the editor, interviews of spokespersons on current affair programs on television and radio, public activity designed to gain attention from the public and the media, and therefore to acquire some status politically; campaigning in elections either directly or indirectly; negotiations with other groups and the building of alliances and; attracting members and funds (Aitken, 1989, p138).

Byrt and Lovell *et al* provide an additional list of tactics which pressure groups use. including testimony at hearings, contact with officials, participation in coalition with others, helping to implement policy, discussion with journalists, assistance in the drafting of legislation, inspiring letter-writing campaigns, mounting grassroots lobbying campaigns, advertising in the media, contribution of work or personnel to the electoral campaign, and public endorsements of candidates to office (Byrt, 1990, p58; Lovell, 1995, p252). Many of these tactics will be referred to later in this paper because they are similar to those employed by the four pressure groups. Their success rates will also be able to be assessed.

Commentators are agreed that the most commonly used tactic by interest groups is lobbying, that is, where pressure groups act on individual members of the legislature to achieve their aims (Jaensch, 1991, p169), although it is not the only one and is sometimes not the most effective (Byrt, 1990, p54). Byrt asserts there are different types of lobbyists whose targets range from the Prime Minister to the middle ranking public servants, to the executives of the political parties and the most influential group of all, the bureaucrats (Byrt, 1990, p57).

The Most Effective Entry Points into the Legislative Process

Jaensch says the function of law-making has passed out of the control of the Parliament to the Cabinet. Individual Parliamentarians are subservient to their parties so legislation is not initiated in the Parliament but in the cabinet room and merely ratified by Parliament (Jaensch, 1991, p175). He therefore doubts that lobbying at any point in the Parliamentary process can be effective. Zeigler's words add weight to this claim: "Policy making can be understood to consist of six stages: proposal development, executive review, legislative action, supplementary decision, implementation and policy review. The traditional role of interest groups is that they participate in demand articulation, and this should occur at the proposal development stage." (Zeigler, 1980, p13).

It is logical to expect the most effective point in the policy process to be in the stage when the government's position is more flexible and it is open to contributions from

interested parties to use in the drafting of the legislation/policy. This perspective highlights the place for the complex network of interest groups in the society which function independently of government, and sees any "policy as the direct result of bargaining and compromise between these groups and the government." (Peters, 1998, p1).

From the available literature, it would appear that the time to achieve the greatest influence is in the preliminary formulation process when the government is educating itself about the policy it is formulating. There is a deficiency in modern literature regarding the most effective point of access in the policy/legislation process. This thesis aims to use the study of the pressure group activity on the School Education Bill 1999 to contribute to the body of literature available in this area.

Moreover, although there is general understanding in the community of the role of a pressure group, there is very little literature available which evaluates pressure group activity based on actual case studies. It is the intention of this thesis, through the case study of the four pressure groups, to assess the effectiveness of the activities of the pressure groups studied in relation to the School Education Act 1999 in the areas of the three questions posed by the study: how effective they are; what methods they use which ensure their effectiveness and; when in the policy/legislative process they are most effective.

Chapter Two The Significance of the New Bill

The progress of the School Education Bill was lengthy and complex. It formed one of the most widely consulted and yet most contentious pieces of legislation in Western Australia's history. Chapter Two will examine the aspects of the Bill which contributed towards this, including the history and the significance of the Bill, the inclusion of a Green Bill process, and the contentious issues which stimulated responses from the community and from pressure groups.

The Significance of the Modernisation of the *Education Act 1928*

It was widely recognised that the 1928 Education Act was in need of change. It was a matter of considerable importance to update and modernise it and to incorporate modern educational theories. The existing legislation had become a patchwork of amendments that been developed over seventy years. Indeed since the passing of the *Education Act 1928*, forty six amendments have been made to that Act and a further twelve amendments to other Acts have forced consequential changes to the 1928 Act. (*The Education Act 1928*).

The existing legislation was written for very different times, when few Western Australians went on to secondary school and when the demands of the working environment were much less complex. Throughout the life of the present Act, there have been many changes in curriculum, school structures, attendance and participation, the recognition of children's rights and in the provision of choice and diversity for students. Western Australia needs an Act to reflect the

education needs of today's society and to take schooling into the twenty first century. (Minister Colin Barnett, Proposal for New Legislation Consultation Report, October 1997, p 2).

The History of the School Education Bill 1999

In 1994, the then Minister for Education, the Hon. Norman Moore (Lib) initiated a review of the *Education Act 1928*. He established a reference group which was made up of representatives from the Education Department, the Catholic Education Office, and the Association of Independent Schools of Western Australia, as well as teachers, school administrators, parents, the legal profession and the community. The group was chaired by the Parliamentary Secretary to the Minister for Education and Member for Roleystone Fred Tubby, MLA (Lib), himself a former school principal (Western Australian Parliamentary Debates [WAPD] Vol 343, 26 November, 1997, p 8664).

In 1994 the reference group was at first located in the Policy and Planning Bureau in the Minister's office, and subsequently in the Department of Education Services. The reference group was always under the control of a Parliamentarian and not an administrator. Indeed, the Hon Derrick Tomlinson MLC (Lib) wrote that this circumstance gave the Bill a political slant. "Because a Parliamentarian chaired the reference group, the direction and control of the legislation shifted from the administrative executive of the Education Department to the political executive under the eye of the Minister of Education. The draft Bill was almost finalised before the Coalition Health and Education Committee was briefed. They did not receive a

copy of the Bill until it was tabled as a Green Bill.” (Tomlinson, 1998, p60). It is unclear whether the Minister’s intention was to exclude the Coalition or the Education Department or whether it was an oversight simply due to the change of Minister midway through its development.

What is clear, however, is that by the time the Hon. Colin Barnett became Minister, the Coalition Government no longer had a majority in the Legislative Council, yet Minister Barnett continued to allow the drafting process under political rather than administrative direction. He would have been well aware that the Bill had to be politically neutral and free from ideological taint for it to have a chance of passing through both houses intact. How was the Minister to ensure that the process stayed under his control, yet incorporate suggestions and contributions from the community, to deal with contentious issues, yet give the Bill the best possible chance to pass through both Houses? The format which was deemed the most suitable because it allowed for, and indeed encouraged, public comment, was the Green Paper.

The Green Paper Process

The Green Paper process is used in the legislative process of Britain, but has only been used occasionally in Australia (Penguin Macquarie Dictionary of Australian Politics, 1988, p159). The terms Green Paper and Green Bill refer to the same process and they are used interchangeably in this paper. Its name is derived from the colour of the cover of the Bill, and it is a process providing for full investigation and debate

on an important matter (Daly, 1978, p50). It is a convenient method for governments to gauge the feelings of the community and to uncover contentious issues before committing the piece of legislation to Parliamentary debate, yet still retain control. It is a process by which a Government can encourage broad participation thus overcoming the problem mentioned by Rousseau of unequal actions by interest groups. Moreover, it is also a process which can ameliorate the delays of a long adversarial Parliamentary process. Minister Barnett stated, in a letter to WACSSO President, Dianne Guise, that "this legislation has been given significantly more public exposure than other Bills presented to Parliament. The consultative process of its development was commended on both sides of the Legislative Assembly." (Barnett, 1 October 1998). The government in this case had a significant piece of legislation in which the community have an interest, and it correctly considered that the community would have opinions to offer on aspects of the Bill. Indeed, Eric Ripper, MLA, (ALP), Opposition Education Spokesman, declared, "It is a good process and it should be adopted when dealing with other legislation." (WAPD, Vol 345, 12 March 1998, p150).

The Green Paper, or Green Bill as it is also known, is a useful start to the legislative process because the government presents a draft Bill which educates the community on the needs to be addressed and then invites contributions and comment. The Hon. Ken Travers MLC, (ALP), said in the Parliament, "I commend the government for using the process of a Green Bill... The opportunity for people to make comments about legislation is always very beneficial. It might mean that people will get more than one bite of the cherry." (WAPD, Vol 352, 17 November 1998, p3476/1) .

Commentators have differing views on the efficacy of the Green Bill format. Paul Kelly, the International Editor of *The Australian* newspaper, advances a key reason for the use of a Green Bill, which is, that the refusal by government to take the hard strategic and budgetary decisions, and 'farming out' the issue to the public, is the action of as weak irresolute government. (Kelly, *The Australian*, 28 June 2000, p 13). In contrast, Anthony Bergin, Director of the Australian Defence Studies Centre at the Australian Defence Force Academy, says, "the process offers the opportunity to raise fundamental questions." He writes with respect to the Defence Green Paper released by the Federal Government on June 27 2000, but his ideas may be equally applied to the Western Australian Education Green Paper. He says the reasons for governments to use the Green Paper format include: "that the consultative process offers the opportunity to build support and to sideline any opposition." (Bergin, *The Australian*, 28 June 2000, p13). It is more likely that the second of these positions could be said to apply to the Court Government's introduction of the School Education Green Paper. The legislation was important and transcended party politics. Public participation was vital to its success in the Parliament.

The Green Paper was released for public comment on the 19 June 1997. It allowed for twelve weeks of consultation and feedback (Review of the *Education Act 1928*, Proposal for New Legislation, June 1997). Copies of the complete draft were sent to every school, to the P&Cs (in Government schools), and School Councils or P&F Associations (in Non-Government schools) and to each local library. There was also a web site from which the draft Bill could be accessed (Review of the *Education Act*

1928, Proposal for New Legislation, June 1997, p4). Submissions closed on the 8th September 1997. The government utilized its own network of schools to draw people's attention to the Bill and its importance. It clearly intended the proposed Bill to be available to all, which would ensure that the final Bill be a compilation of government policy and ideology as well as community contribution. This leads to the question of what were the troublesome aspects of the Bill which the government wanted to address and counter before the legislative process?

The Contentious Issues in the Bill

On 23 October 1997, the Minister tabled a report in the Assembly on the public consultation and the major issues raised (Proposal for New Legislation Consultation Report, October 1997, Pp 1 - 10). The Minister acknowledged the feedback which came as the result of the process of consultation and, which the government asserted, was the reason for major revisions that were made to the Bill (Proposal for New Legislation Consultation Report, October 1997, p2).

The draft Bill was broken into six main sections called Parts. The first part was called Preliminary and it related to the Objects of the Act, and explanation and definition of terms. Both WACSSO and ALSWA disagreed with the Objects and considered them to be lacking in educational value (ALSWA Submission p2; WACSSO Submission, p2), while the DSC wanted to include a set of core principles to ensure the new Act contained a clear purpose of its intent (DSC Submission p11). The term 'Objects' refers to a set of core values underpinning the School Education Bill. WACSSO and

the DSC also objected to the absence of due process for social and natural justice (ALSWA Submission p7; DSC Submission p12; WACSSO Submission p2)

Part Two related to Enrolment and Attendance and applied to all students with respect to compulsory education, enrolment and attendance at all schools, absentee students, absence for special observation, and Home Education. The four pressure groups found many contentious issues in this part. Among them objections to the penalties and fines as being too punitive (ALSWA Submission, p3; WACSSO Submission, pp3, 4,7,8), the inadequate and narrow definition of 'educationally appropriate' (ALSWA Submission, p4; DSC Submission, p19; WACSSO Submission, pp5, 6,9-12), the remedies for absenteeism and non-attendance due to cultural or other reasons were seen not to be sufficiently appropriate and too legalistic (WACSSO Submission pp7,8; ALSWA Submission p5, DSC Submission p15). Other objections raised included the lack of appropriate attention for children with disabilities (DSC Submission p17, WACSSO Submission p9), and the issues surrounding Home Schooling including the requirement to be registered and to be inspected (ALSWA Submission p6, Sue Lang, personal communication, 11 October 2000).

Part Three was specifically for Government Schools and it related to the running of the school and the requirements for the Principal and staff, as well as enrolment, suspension and exclusion. It also alluded to community involvement in the form of School Councils and Parents and Citizen Associations. This part attracted comment from ALSWA regarding the ability of teachers and principals in dealing with

Aboriginal matters appropriately and with the lack of safeguards against the closure or amalgamation of schools (ALSWA Submission, p8), as well as from WACSSO in a broader context (WACSSO Submission, p8). There were also objections regarding the imposition of fees and charges for schooling (ALSWA Submission, p9; WACSSO Submission, pp14, 15).

Part Four was directed at Non-Government Schools and made provision for registration of Non-Government schools, and systems of Non-Government schools, in addition to clauses relating to funding and reporting and inspection. This part did not attract submissions from the four pressure groups because all groups were concerned with the provisions of the delivery of education at the fundamental level, and non-government schools are seen to provide education beyond that level.

Part Five pertained to the Administration, from the Minister, to the Department and to the staff. It also included the establishment of Advisory Panels, for various purposes related to the Act, as well as review of Ministerial decisions. This part drew submissions from ALSWA, the DSC, and WACSSO (ALSWA Submission, p12; DSC Submission, p24; WACSSO Submission, pp22, 23).

Part Six was called Miscellaneous and it covered pre-school centres, the repealing of the existing Act, and consequential legislative changes (Education Department, Review Of The Education Act 1928, June 1997).

Minister Barnett summarised the key contentious issues as those which related to dealing effectively with absenteeism, fines and penalties, home schooling, education for students with a disability, School Councils in Government schools, and the need for community involvement in the development of regulations to accompany the new act (WAPD, Vol 342, 23 October 1997, p7364).

Because the general public needed an informed debate about the Bill and its issues, the role played by the media now needs to be examined. Did it contribute to the debate? Did it inform the audience through educated debate and public discussion, or did they simply report the facts?

The Role of The Media

The role played by the media is important to the understanding of the consultative nature of the Bill. The government wanted to encourage public participation in the development of the School Education Bill 1999. During the Consultation Phase, the media had the opportunity to play a significant part in bringing the Bill and its contentious aspects to the attention of the general public. Indeed, this was the period in which the Government and the public most needed the help of the media. The larger pressure groups had received copies of the Green Bill and had already identified the issues which they would challenge. For the process to be properly consultative, the Government needed to ensure that the wider community was encouraged to participate, which meant that as many people as possible needed to be

well-informed about the Bill and its ramifications. The part played by the media was vital to this situation.

During the Parliamentary phase, the role of the media was less important from an educative point of view, because the opportunity for the public to contribute had passed. There remained the usual role for the media of reporting the Parliamentary proceedings, to allow the public to follow the progress of the Bill.

When the Green Paper was released for public comment on 19 June 1997, the *West Australian* was modest in its response. The article described one of the minor contentious issues namely the power for any school to register themselves as a school independently of the Education Department, and continued with the concerns of WACSSO and the SSTU (Ashworth, *West Australian*, 25 June 1997, p34).

Many media outlets gave details of the scheduled community meetings and delivered brief background reports to accompany the notification (*Kalgoorlie Miner*, July 1997; *Geraldton Guardian* 21 July 1997; *West Australian* 22 July 1997; *Wheatbelt Mercury* 23 July 1997; *Hills Gazette* 27 July 1997; *Stirling Times* 29 July – 4 August 1997; *Kimberly Echo* 31 July 1997; *Southern Gazette* 2-8 September 1997; ABC Regional Radio 18 July 1997). Papers reported on the progress of meetings, attendance figures and questions raised. *Narrogin Observer* journalist, Bronwen Roberts, reported on the public meeting held at Narrogin SHS, attended by 40 parents and teachers. Her report was comprehensive and noted the history of the Bill, the consultation phase, and the proposed changes. She included questions from the floor and the responses

of the Minister. One of the questions related to the severity of the fine to be imposed on a non-attending child. The Minister, in response, said that the fine was included to gauge community feeling as a "deliberate joke." (Roberts, *Narrogin Observer*, August, 1997 p6). This gives rise to speculation that the fines were deliberately set high in order that they may be reduced according to the community sentiment raised during the Green Bill phase. The people of Narrogin and surrounding districts were well served by their local newspaper which clearly looked to its responsibilities to educate and inform its readers. But what of the other regional media?

Explanatory articles appeared in some of the other regional community newspapers, attempting to present a broad coverage. They all referred to the consultative nature of the Bill and the Government's desire to receive submissions from individuals and community groups (*Kalgoorlie Miner*, 20 June 1997 p 5; July 1997; 12 August 1997; 24 September 1997 p 7; *North West Telegraph*, 10 September 1997, p2; *Southern Gazette*, 16-22 September 1997, p 4, *Wheatbelt Mercury*, 1 October 1997, p5).

The *North West Telegraph* reported Karratha teachers calling on the Legislative Council to form a select committee to examine the new Bill. It also mentioned the Karratha State Council delegate with increased fears that the new ideas are not well co-ordinated and would in fact be disastrous for public education (*North West Telegraph*, 10 September 1997, p2). The *Wheatbelt Mercury* reported on a submission made by P&C groups following a public meeting at Merredin SHS on 30 July 1997. The groups included Secondary Schools Teachers Union (SSTU), WACSSO, the DSC, Non-Government school sectors, P&C Associations, Home Educators. The

submission centred on the education of disabled students; the role of principals in the education system; the role of parents and the P&Cs; the School Attendance Panels re absenteeism; the scope of fines and penalties; the establishment of an independent review process and the scope of the home schooling provisions (*Wheatbelt Mercury*, 1 October 1997, p 5).

The regional print media generally gave their readers a good coverage of the consultation process, which was taking place in their areas. Moreover readers were informed about the results of the meetings and the concerns of groups and of individuals.

Similarly, the metropolitan newspapers advised of public meetings (*Hills Gazette*, 27 July 1997; *Stirling Times*, 29 July –4 August 1997). The *West Australian* mentioned the public meeting planned for Methodist Ladies College (*West Australian*, 22 July 1997, p20), which was followed by a report on the issues raised at the meeting, including home schooling rights and increased fines. The article also announced the next metropolitan meeting (*West Australian*, 24 August 1997, p38).

Other media attention to the Green Paper in the city area was given by the local ABC Radio, 6WF in an interview with Colin Barnett who concentrated on four main issues. These were the legal recognition of home schooling, greater flexibility given to religious instruction, increased responsibility for discipline and dress code to be given to school councils, and management of the school to be returned to the community (6WF, 22 July 1997, 2.07pm).

The media played an important role in the campaign of the Home Educators (HBLN) because individual members of the group used Talk Back radio and the Letters page of the daily paper to raise the group's profile and to bring the issues to the public attention. Because HBLN members attended every public meeting and spoke at length during the question times, the groups contribution was also reported in the media. In this way a group with very limited finances was able to raise its profile in the debate (Sue Lang, personal statement, 11 October 2000).

Both regional and metropolitan papers reported the meetings, and most of the regionals gave an account of the meetings and the concerns raised. The newspapers however did not feature articles debating the issues of the Green Bill before the community meetings. It is possible that they did not know what the concerns were or what sectors of the community were planning to challenge which section of the Bill. The Bill was large and comprehensive and would by its very nature attract a great deal of opposition, so the media could quite reasonably have decided to report the dissent rather than promote it. The metropolitan daily, gave very brief attention to the Green Paper, and did not attempt to explain the legislation or the implications of its new features or indeed make a comparison between the old and the new.

The School Education Bill 1999 was tabled in the Parliament on November 26 1997. The next chapter will examine how the public became informed of the issues, and the actions the pressure groups took during the consultative phase.

Chapter Three Pressure Groups and the Consultation Phase

The School Education Green Bill was sent to every government school in the State, in addition to bodies such as WACSSO and the SSTU. Public meetings were organised for centres all over the State in addition to two teleconferences in the remote areas of the North West. The Bill became the most widely consulted Bill in Western Australian history. Minister Barnett said, "We can have debate about the detail and content of the Bill, but no piece of legislation in the State's history has had such a deliberate and wide consultative process." (WAPD, Vol 348, 23 June 1998, p4807). This Chapter examines the actions which the four pressure groups undertook during the consultative phase of the Bill, while keeping in mind the three questions of this thesis: how effective pressure groups are, what methods are most effective and when in the progress of the Bill is the most effective time for action. First, however, there will be a study of the dissemination of information undertaken by the government in its attempt to educate the public.

The Government wanted to encourage as many contributions as possible from the wider community, including competing or conflicting views, so that the passage of the Bill would be clear and swift through both Houses. In March of 1998, Minister Barnett said, "I hope this Bill will pass through both Houses before mid-year." (WAPD, Vol 345, 10 March 1998, p566). Indeed, one of the measures of the success of the consultation process can be seen in the large number of contributions from the public. Through what avenues did the public learn about the Green Paper?

One obvious avenue was the media, both print and electronic. However, the media, it has been shown, did not devote very much space in the fulfillment of its educational role. Indeed there even appeared to be very little output from the Government media office during this period? Therefore the question is what measures did the government take to get their information to the public?

One source of information for the public who were members of school communities, was a series of broadsheets and information packs from the Education Department to school Principals which were made available to the school staff (Review of the Education Act 1928, June 1997). If they were aware the kits existed, active parents or community members were able to utilise these kits to add to their knowledge and understanding of the proposed changes. The back pages contained tear-out response sheets for different sectors of the community, to be filled in, and returned to the Education Department as another type of submission. Issues of opposition to the Bill or parts of the Bill were not raised in this publication, because it came from the Education Department, and necessarily reflected the government position.

The information available to those individuals who did not belong to a lobby group, or who were not active parents of school aged children, was limited. During the Green Paper consultation period, the pressure groups in this case study, were also working on their own responses to the call for public consultation. Contentious or controversial issues were the province of those pressure groups who were able to organise themselves and write their own submissions. The four pressure groups in

this study each utilised different approaches to address the issues to bring their pressure to bear.

ALSWA (Aboriginal Legal Service of WA)

ALSWA worked closely with WACSSO, and with the State School Teachers Union, over matters each group had in common, and there was a great deal of lobbying Members, both formally and informally, using previously established contacts. The group has Insider status on educational matters with the ALP, and it worked extensively with Eric Ripper and with Members in the Upper House and on the Committee, providing information for debates and for Opposition sponsored amendments (Colleen Haywood, personal communication, 8 November 2000).

ALSWA wanted reductions in the fines and penalties, and to change the pathways leading to fines and the juvenile justice system. It wanted to include more emphasis on diversionary programs and to avoid the punitive track (Colleen Haywood, personal communication 8 November 2000). It also wanted to change aspects of the Advisory Panels, for example the School Attendance Panel, and its composition, and methods of operation. It achieved success with reductions in fines and penalties and with changes to the panels, but not with the punitive aspects of the Bill.

ALSWA made a comprehensive fourteen page submission on the Bill. It addressed those issues particularly relating to its clients. The submission drew attention to the educational definitions and the inclusive language of the Bill as applied to all children including those with a different cultural or geographical situation. It

couched its objections to the financial penalties for enrolment anomalies and absenteeism, in the language of the Equal Opportunity and Human Rights legislation in Western Australia (Draft Submission, p3).

Further, the submission raised ALSWA's objections to one of the central planks of the Bill namely absenteeism and its legal consequences. These included the role of the parents, and the School Attendance Officers and their suitability for the role; and the power given to the school principal to make determinations about Aboriginal students.

The submission also outlined the various successful programs which many organisations had initiated to alleviate the problems which Aboriginal children experience in the education system of Western Australia. These organisations include the Police Department, the Department for Family and Children's Services, the Health Department and the Education Department itself (Kraemer, 1998).

Each of the responses from ALSWA was made under the same headings, and made use of similar wording as used in the draft Bill yet it did not write recommendations for amendments to particular clauses.

DSC (Disability Services Commission)

The DSC publishes an information newsletter every two months to disseminate relevant information and to act as a forum for discussion of issues which affect

members of the disability community and their families. This magazine, entitled *Update*, announced in the June/July 1997 edition that there was a community forum to be held to assist the DSC to prepare a response to the draft Education Bill.

At this point it is important to note that within the Commission, another body, the Ministerial Advisory Committee, exists to advise the Minister on significant matters. The DSC's Coordinating Response Committee, was separate from the Ministerial Advisory Committee and it included members of the DSC, community representatives, and people from the disability sector, and it published a discussion Paper in August 1997, for the public meeting. More than two hundred copies of the discussion paper were sent to members of the disability community calling for contributions to be included in the submission (David Colvin, personal communication, 13 October 2000). It briefly mentioned the relevant sections and at the end of each section, wrote a paragraph on the issues to be considered. In this way, attention was focussed with clarity on the parts important to the DSC clients.

More than eighty people attended the public meeting which drew a favourable comment from Minister Barnett when he was presenting his report on the consultation process in October 1997 (<http://www.des.wa.gov.au/search.htm>).

The submission, produced in September 1997 by the Coordinating Response Committee, was a nineteen page document which contained twenty three amendments which were well presented and written using similar terminology to that of the Government. The major amendment was related to the provision of

genuine choice of inclusion in a regular school or class, because the new Bill should not only enhance the child's educational opportunities but also the social opportunities. There was a suggestion that the words "appropriate educational program" was seen to be an excuse for not needing to provide programs for a child with a disability to attend a mainstream school, instead of modifying the programs when the child was already at the school. The onus of proof appeared to be on the parent to explain why the school could provide a program (David Colvin, personal communication, 13 October 2000). Some other suggested amendments were related to ensuring consistency with the Disability Discrimination Act, and another agreed with the WACSSO position of requiring a set of broad educational principles. Several of the suggestions related to principles of natural justice when dealing with matters in dispute, and the right of the parents and the child with the disability, to have access to processes of redress.

This was the extent of the DSC's involvement, because they did not use the media, and they were not invited to appear before the Legislative Council Committee. One suggested explanation for this, is the existence of another submission from the Ministerial Advisory Council which was critical of aspects of the submission from the Response Committee, saying it focussed too much on the rights of the parents and not on the rights of the child. This apparent tension may have placed the Minister in a difficult position, so causing the Response Committee to be overlooked during the Parliamentary phase (David Colvin, personal communication, 13 October 2000).

The DSC were neither an Insider nor an Outsider group, being a Government agency and as such were limited in the tactics they could choose to use. They consulted among their own community, wrote a submission using the language of Government, and had the support of an organisational structure, with financial stability. They were not in a position to use the media or lobby politicians, not only because such actions are not appropriate for a Government Department, but also because they were not experienced in such matters. These are the reasons why the tactics of the DSC were not seen as very effective.

HBLN⁴(The Home Based Learning Network)

HBLN was particularly active in bringing their grievances to the public attention. The members did not have access to the frequently disseminated information from the Education Department, and it did not have the ready forum of the staffroom at lunchtime to discuss amongst themselves any troublesome issues. It would have received information relating to the Bill, however any discussions or meetings would have to be organised and arranged. This group, as has been shown, is a small group united by their desire to provide an education for their children in their own home environment. There is no office-based structure of people who perform administrative functions. When the members are not teaching, they are living their lives. In order to respond to the contentious issues of the School Education Bill 1999, the teacher/parents themselves had to encroach into their own time and resources.

The HBLN approach utilised the existing structures of radio and newspaper, with a campaign of telephoning talkback lines on the radio and writing Letters to the Editor. It used the electronic media very early in the process with two talk-back callers express negative comments about the home education regulations (6WF, 23 June 1997, 12.40pm). This raised enough interest to warrant a radio interview with the Home Based Learning Network on the 1 July 1997. The interview raised the issues of concern over the changes to the home educating guidelines; the power the Minister has over Home Educators, and the vexed problem that some Education Department people still believe that home educating is illegal.

A later interview was held with the Education Department Home Tuition Officer who said about eighty percent of home education was satisfactory, and that it takes a while for home educators to establish themselves properly (6WF 1 July 1997, 4.07pm). This served to keep the HBLN to the fore of the public mind.

The Letters to the Editor featured one letter from the Treasurer of HBLN being critical of the stricter regulation of curriculum without regard for the needs of the child, and the greater powers the new draft gave the Minister (*West Australian*, 15 July 1997, p 12). In another letter, the writer is unhappy with the new strict guidelines and the accountability for the outcome when the Education Department does not appear to be accountable for its poor outcomes (*Sunday Times*, 20 July 1997, p 6), while another is also concerned about the increased scrutiny of home educators (*West Australian*, 27 September 1997). Other media outlets made mention of the home schooling issue.

The Minister himself, in a radio interview, said the Green Paper was based around four main points one of which was that home education was being recognised for the first time (6WF, 22 July 1997 2.07pm). Although Mr Barnett mentioned the issue of home education, he concentrated his interview on the less contentious issues which were not attracting attention from any of the other pressure groups. Was this a calculated effort to deflect attention from those contentious issues or was it an attempt to bring other issues to the fore?

The *West Australian* reported on the meeting at Methodist Ladies College which was dominated by home educators worried that their home education would be restricted (*West Australian*, 24 July 1997, p 38). Indeed, the public meetings were very well attended by the home educators, drawing critical comment from the Reference group who claimed that the home educators were hijacking the meetings, with the result that the format was changed to prevent multiple questions from the home educators (Sue Lang, personal communication, 11 October 2000).

HBLN did not make a formal submission, which meant that their involvement in the consultation period was confined to the broad approach of radio and the newspaper, attendance of the public meetings, and finally the lobbying of the Parliamentarians in preparation for the debates.

The Hon. Derrick Tomlinson MLC (Lib), said that the home education issue was unlike the other areas of the debate, which were about legal and administrative

structures, rather it focussed upon political values. That is, this aspect of the Bill was about the fundamental political tension between responsibilities of the state and the independent rights of individuals, and it will only be resolved through political processes. As a codicil to his argument, Tomlinson concedes that over-riding all philosophies and dogma will be the estimation of electoral opportunity (Tomlinson 1998, p61). Sue Lang from The HBLN said that one major achievement of the campaign was the bringing to the public attention of the groups arguments, which may augur well for their success in the future public discussions (Sue Lang, personal communication, 11 October 2000). It remains to be seen whether this is the only measure of the success of a pressure group's activities.

WACSSO (Western Australian Council of State Schools Organisations)

WACSSO's first action was to discuss the proposed Bill at its State Conference which is their supreme governing body (Dianne Guise, personal communication 19 October 2000) They voted on the changes or amendments, and a number of resolutions were passed to initiate co-ordinated action from the P&Cs. These included the publication of a series of ten information bulletins, published monthly and directed at the constituents. Each bulletin discussed a different aspect of the Green Paper, as well as encouraging direct action from the P&C members. They exhorted their members to write letters to their local MPs (*P&C Voice*, Vol 4, No 2, p3), which, according to a letter from Penelope Muecke a State Councillor from the Warren-Blackwood region, was very successful. She claimed that the letters had an impact on their recipients and considerably raised the awareness of the issues involved (*P&C Voice*, Vol 4, No

2.). Another activity WACSSO asked of the P&Cs was to lobby each political party, and to prepare a draft submission (*The School Education Bill 1997*, No 10, 6 March 1998). In a further effort to mobilise their constituents, WACSSO sent additional flyers and letters outlining individual changes needed, with an attached copy of the relevant pages from the Bill and the reasons for requiring the amendment. The submission was the culmination of contributions from members, permanent office staff and Office Bearers and it contained substitute clauses, and amendments written in the same language as the original draft Bill (Dianne Guise, personal communication, 19 October 2000).

WACSSO's level of activity was two-fold because they could suggest actions to be taken or indeed they could call for proposals from their affiliates, as well as taking action as the umbrella body. For example parents from Binnu P&C suggested amendments in the sponsorship clauses for WACSSO to pursue (Carol Thorniley, Hon Secretary, Binnu P&C). The organisation also made use of the electronic media with news bulletins at 7.00, 7.45 and 9.00 am reporting an interview with Dianne Guise, the President of WACSSO, who raised the issue of student punishment, government responsibility to fully fund education in WA, and the definition of P&C groups in the new Bill (6WF, 24 August 1997). The influence of WACSSO could become more effective because it was felt in more places.

The consultation period for the Green Paper closed on 8th September, yet the WACSSO administration published a Call to Action in the ninth School Education Bill 1997 Bulletin sent out in October 1997. It correctly judged that further debate would occur and it wanted to play an influential part. It called for the establishment

of a working party within the P&C to devote its time solely to the assessment of the Bill without taking up the time of the P&C. It urged P&Cs to invite their local MPs to a meeting to discuss the Bill and consequently lend their support to the amendments (*The School Education Bill 1997*, No 9, 6 October 1997).

WACSSO had chosen to pursue the activities normally associated with Outsider groups which were to consult with their members, and then to select targets and to lobby them as was the case with the letter-writing campaign. Moreover, through newsletters and flyers, it continually kept its members informed of what it was doing and what the member could do themselves. It then added to its tactics with media interviews, both print and electronic, as it continued to encourage its members to act. The organisation was able to draw upon a strong structure, adequate funding, experience with written communications with government and a variety of tactics which were modified to suit the circumstances, to support its efforts. In this way WACSSO was able to effectively influence the draft School Education Bill 1999.

The consultation process in the general community showed that there were six thousand copies distributed to schools and parent groups, in addition to fourteen thousand copies of a "plain English" summary which were distributed. Provision was made for 31 local meetings held at sixteen locations around the state for members of the public, teachers and school administrators. The Chairman of the Reference Group, Fred Tubby MLA (Lib) or Ken Booth from the Department of Education Services chaired each of the meetings (*Review of the Education Act 1928 Proposal for New Legislation*, June 1997, Pp2,3,4). Two videoconferences allowed

people in remote areas to participate in the consultation process, as well as a website (Review of the *Education Act 1928*, Proposal for New Legislation, June 1997).

What influence did each of these sets of actions have upon the School Education Bill?

What changes were made to the draft School Education Bill between the tabling of the Green Paper and the Second Reading Speech at which the Bill was tabled in the Legislative Assembly on 26th November 1997?

To answer these questions it is necessary to study the response in the Parliament from Minister, The Hon. Colin Barnett, on 23rd October 1997. Minister Barnett's response was divided into sixteen subsections which directly corresponded to the issues which had attracted the greatest amount of comment. Some of the sections related to Fines and Penalties, Absenteeism, School Charges, Home Education, and Students with a Disability. There were also sections dealing with School Councils, P&C Associations, Independent Review and Complaint Procedures, Suspension and Exclusion, the Closure and Amalgamation of Government Schools, Sponsorship, Community Pre-schools and Non-Government Schools. The final sections concerned Staff Management Issues, the Objects of the Bill, and Consultation and Interpretation of the Bill. Of the sixteen sections, fourteen were the subject of attention from one or more of the four pressure groups in the case study.

The result of the pressure exerted by WACSSO, was not seen by them to be a success. In an article entitled, "Is the School Education Bill a Dead Issue?", Penelope Muecke said that after the expensive community consultation, disappointingly, very little had

changed in the re-drafted Bill. She conceded that a whole new section on community kindergartens was included, some changes made to the Home Education section, alterations to the process over amalgamations and closures of schools, and staffing issues addressed, however she said that the changes represented "tinkering around the edges", rather than any real effort to take seriously the concerns raised (*P&C Voice*, Vol 4, No 2, p3). She cites a failure to include educational principles and objects, and a lack of natural justice and due process for truants and students who are difficult to handle, and contravention of the United Nations Convention on the Rights of the Child, and the Federal Anti-Discrimination laws.

WACSSO continued to exert influence after the tabling of the Bill, because it believed that not enough of its amendments had been accepted. ALSWA also continued their pressure as did the Home Educators by lobbying Members, to keep their objections to the fore, to influence debate in both Houses. The DSC made its submission during the consultation phase and took no further public part in the proceedings.

Revisions were made to some of the parts of the Bill, and Minister Barnett mentioned the broad changes when he delivered an interim speech in the Parliament in October 1997. There were alterations to the penalties and fines, increased emphasis on intervention programs to deal with absenteeism, both of which were part of ALSWA and the WACSSO submissions. There was a continuing commitment to free tuition but a fee for materials and services, with the promise that the Education Department would prepare a set of maximum charges, which was a concern raised by ALSWA and WACSSO in their submissions. There were changes to the tone of the clauses

and the removal of penalties, in addition to the responsibility for the arrangement of the evaluation visits being given to the parents rather than an inspector in response to the Home Educators' submission. There were also changes relating to provisions for students with a disability as a result of the DSC submission. The changes included a modification of the definition of disability, an increase in natural justice mechanisms allowing parents the right to a review, and a modification to the Bill to allow students' individual needs to be taken into account when enrolling at school. The changes to the P&C Associations and School Councils which were the subject of the WACSSO submission, were not as clear and there was only a promise of a review. The independent review and complaints procedures in the Bill, a concern of all four of the pressure groups, were not altered but were to be further studied. No changes were made to the suspension and exclusion procedures, which was raised by WACSSO and ALSWA submissions, indeed provisions to make the legislation tougher was mentioned. There were changes to the closure or amalgamation of school, raised by WACSSO, but they were minor and allowed for more consultation, as also were the changes to the provision for sponsorship, also raised by WACSSO. There were no other changes to the issues of Non-Government schools raised by WACSSO, nor to the Objects of the Bill, raised by WACSSO and ALSWA.

The changes outlined above appear considerable and highlight the potential for effectiveness which pressure group activity may have during the consultation period. It cannot be said that all of the changes were brought about by pressure groups, because the particular process invited contributions from the entire community. It

can however be concluded that this time is an effective point of entry for community activity in the Green Paper process.

Previous chapters have shown that some pressure groups are affiliated with political parties and have an Insider Status, which assists their agendas in being adopted by political parties and as Government policy (Marsh 1983 as cited in Warhurst, 1997, p114; Jaensch, 1991, p176). For the other groups, the Outsiders, one method of influence is to enter the Parliamentary debate on a Bill. As it has been shown, the weight of critical opinion doubts that this is effective, due to government policy having already been decided in the party room or in the Cabinet room (Jaensch, 1991, p174; Zeigler, 1980, p13). The School Education Bill 1999 was a unique situation because the Government did not control the numbers on the Legislative Council, and the Outsider groups had the chance to bring an influence to bear through Opposition Members, or through submissions during the Committee stage of the Bill.

The Government asserted that considerable changes were made to the draft Bill and it clearly hoped that the Bill would have an easy passage through both houses. Indeed Minister Barnett, in his Second Reading Speech on 26th November, stated that he wanted the Bill passed during 1998 with regulations in place for the school year 1999 (Barnett Second Reading Speech, November 1997). Chapter Four examines the contributions of the pressure groups in both houses and in the Legislative Council Standing Committee on Public Administration.

Chapter 4: Pressure Groups and Parliament

The *raison d'être* of a pressure group is to exert pressure to 'influence the course of public policy to promote its objectives' (Jeansch, 1991, p169). The course of a public policy decision moves through a number of stages which each require a different kind of pressure, using a variety of tactics and aimed at diverse circumstances. Every pressure group has a range of tactics at its disposal from which it selects the most appropriate for the situation. The tactics which the pressure groups in this study adopted, changed during the Parliamentary phase. This chapter will examine these changes and their impact.

The Legislative Assembly

The Hon. Colin Barnett introduced the School Education Bill 1999 in the Second Reading Debate to the Legislative Assembly in November 1997, and gave a brief history of the existing *Education Act 1928*, referring to the fact that the draft Bill had been completed as a result of the efforts of a Reference Group established by the then Minister for Education, the Hon. Norman Moore in 1994. He then made mention of the Green Paper consultation period, the opportunities created by the government for community contributions and the public responses (Barnett, Review of the *Education Act 1928*, November 1997 p3).

The Minister for Education was asked a series of questions by the Opposition parties concerning changes to the Bill with respect to Home Schooling and to truancy,

questions which reflect the concerns raised by ALSWA, WACSSO, and the Home Schoolers (WAPD, Vol 343, 26 November 1997, p8755). He responded that there would be changes to the Bill with respect to Home Schooling and the removal of the penalties and a shift in the arrangements for registration and for home inspection visits. He also replied that greater emphasis would be placed on intervention strategies to deal with absenteeism, and that the function of School Attendance Panels would be modified (WAPD, Vol 343, 26 November 1997, p8755/2). The Minister's answer to the questions highlighted the value of the Green Paper process to the pressure groups and community by providing an avenue through which objections and concerns are able to be taken into account and incorporated into the Bill, eliminating the need for lengthy debate and thus ensuring the speedy passage of the Bill. This thesis is examining the question of when in the legislative process is the most effective time for pressure group activity. The Minister's response supports the contention that a successful entry point for pressure group intervention is before the Bill is tabled in the Parliament. Indeed, Minister Barnett notes in a letter to Mr Dennis Eggington, CEO of ALSWA, on 27 October 1997, that 'changes are under way in the area of fines and penalties in the Bill, and a means of dealing with absenteeism', due to views expressed in the submissions (Barnett 27 October 1997, letter).

The Opposition Spokesman Eric Ripper declared his support for the Bill and spoke of his party's support for a Committee of the Whole¹. He then went through the Bill clause by clause, nominating the issues for which his party would be moving

¹ Committee of the Whole:- "a committee consisting of all members of the Legislative Council or Legislative Assembly, usually formed to consider a Bill in detail.." *Speaking of Parliament....*, Parliamentary Education Office, Parliament of Western Australia

amendments. All thirty three speakers who addressed the Parliament referred to correspondence from their constituents, or from the Home Educators, or from the WACSSO sponsored letter writing campaign or from other pressure groups. The correspondence included visits, comments, letters, conversations and requests for information (WAPD, Vol 345, 10 March 1998, p150).

This is a clear indication of the tactics which pressure groups were beginning to adopt. Written submissions were no longer useful because the Bill had been drafted and an effective pressure group is a flexible pressure group, so the time had come to increase the pressure on individual Parliamentarians. The Home Educators also maintained their presence in the media, through talk-back radio and Letters to the Editor (*West Australian*, 27 September 1997).

Education Minister Barnett clearly considered that the hard work was behind him when he said, "I hope we can move through Committee reasonably proficiently. I hope this Bill will pass through both Houses before mid-year." (WAPD, Vol 345, 10 March 1998, p566). He had plans for the Bill to be "debated in State Parliament during the Autumn session in 1998 with the expectation of having the legislation operative for the 1999 school year." (Black and Phillips, 1998, p281). He appeared to be confident that opposition to the Bill's components had been addressed, saying, "There is not a lot of politics across the Chamber about this Bill. In fact there is a genuine desire to come up with a good piece of legislation. We have that with this Bill, and if it could be improved through its passage in the Parliament, I would be appreciative." (WAPD, Vol 345, 12 March 1998, p572).

On the 28 April 1998, the Bill went into the Committee of the Whole. During this time, the Opposition parties raised amendments for consideration. Some of the amendments came from the Government benches, and many were the result of consultation with constituents and with pressure groups. For example, Clive Brown MLA (ALP), referred to a letter from a constituent, a Home Educator, who raised concerns about the apparent linking of children who are educated at home with children who are at risk from child abuse (WAPD, Vol 347 11 June 1998, p3823/2). All clauses and amendments were debated which gave the government the opportunity to reiterate its beliefs and to explain which clauses which had been modified as a result of the consultation process.

The debate occupied a great deal of the Parliament's time in the Legislative Assembly (Black and Phillips, 1999, p279). There were many amendments to consider after representations by pressure groups to the Members. Were the amendments successful? Is this forum an appropriate entry point for effective pressure groups activity? On the question of the success of the amendments it must be noted that the Opposition parties moved more than one hundred amendments and only eight were passed. The Government itself moved and passed twenty one amendments. Any representations by the pressure groups to the Members of the Lower House appear to be successful mainly when the Members are Government Members. It can be seen that the Legislative Assembly is not an effective point of entry for pressure group activity, mainly because any changes a Government would make to legislation would have been made before the Bill was tabled and the Government has the majority in this House which usually rules out any further changes.

The Bill was finally sent to the Legislative Council on 23 June 1998. At that time, Minister Barnett evidently thought enough consultation had taken place,

There is talk about setting up a Committee. It is perfectly fine for the Upper House to set up a Committee, but I hope it will be a Committee that looks at the details of the clauses of the Bill, in the way we undertook in this House. I would be concerned if the Upper House Committee is established and starts a public consultative process.....We can have debate about the detail and content of the Bill, but no piece of legislation in the State's history has had such a deliberate and wide consultative process (WAPD Vol 348, 23 June 1998, p4807).

The Legislative Council

The Legislative Council in Western Australia is seen as the House of Review. In fact the WA Inc. Royal Commission emphasised that the Legislative Council had *inter alia* a 'vital if unrealised place in our constitutional fabric' to be a House of review, and to probe and check the administration of laws, through a committee system.² The Commission on Government³ strongly endorsed the view that the role of the Legislative Council is largely to scrutinise and review legislation which originates in the Legislative Assembly (Phillips, 1998, p65). When the Bill was introduced into the Legislative Council by the Hon. Norman Moore MLC (Lib), on 30 June 1998, in the

² *Report of the Royal Commission into Commercial Activities of Government and Other Matters*, Part II, Section 5.3.6

³ *Commission on Government, Report No 3*, pp332-339

Second Reading Speech, it was referred to the Standing Committee on Public Administration. This did not augur well for the swift passage of the Bill through the Legislative Council.

At this point, it is important to remember that all changes to the original Green Paper arose as a result of the consultation period, and only eight changes proposed by the Opposition parties, initiated by the pressure groups, were passed in the Lower House. The reason for this is because the Government controlled the Legislative Assembly. The situation in the Upper House appeared to give rise to a window of opportunity for the Opposition, because after the 1996 State election, for the first time in the history of the State, the conservative parties lost control of the Upper House. This situation came about because the Government had seventeen out of the thirty four seats from which they provided the President, which reduced their numbers to sixteen. Therefore the control of the Legislative Council fell to the combined numbers of the three opposition Parties, the Labor Party, (twelve), the Australian Democrats (two), and the Greens (three) (Phillips, 1998, p195). This provided an avenue for the pressure groups to exert influence in addition to that which they had already brought bear during the consultation phase.

The committee system is given little value by Jaensch who identifies limitations in its effectiveness because of its inability to coerce the executive, (Jaensch, 1992, p112), while other writers assert that, "Parliamentary committees are the most important sources of information...A strong committee system....makes life difficult for the executive." (Lucy, 1993, p184).

The government argued strongly in an effort to sway the smaller Opposition Parties, because there was a chance that the failed amendments from the Legislative Assembly would resurface in the Committee. The pressure groups behind the failed amendments could use this opportunity to make submissions to the Committee and to lobby the Members of the Opposition parties to influence the direction of the Bill. Indeed, this is precisely what happened. Later in the proceedings, the Hon. Bruce Donaldson MLC (Lib), noted, "Some of the amendments were tried on in the other place and did not succeed because lo! and behold the Opposition found it did not have the numbers." (WAPD, Vol 352, 18 November 1998, p3640).

It is reasonable to presume that Minister Barnett, as an experienced political campaigner, would be aware of this, as he also would have been aware that the Bill, as it passed through the Legislative Council, would be challenged and scrutinised more than is usual. The Legislative Council Standing Committee on Public Administration would call before it individuals or groups to answer questions on aspects of the legislation. It would take submissions and make a report based upon the evidence which it received. The Parliament is not bound to adopt the recommendations of the Committee's report, as for example is the Parliament of the ACT (Yates, 1999, p6).

Indeed, WACSSO saw this opportunity, as did ALSWA, and they both appeared before the Committee. The Opposition spokesman for Education Eric Ripper (MLA) wrote letters to invite both ALSWA and WACSSO to make written or oral submissions to the Committee (Ripper, letter 26 August 1998). Neither the DSC nor

the HBLN was invited to give evidence to the Committee, so the most effective period for those two groups was definitely the Consultation phase before the Bill was tabled in Parliament. The effectiveness of the tactics will be assessed at a later point.

The Standing Committee on Public Administration

This Committee was chaired by the Hon. Kim Chance MLC (ALP), with the Hon Barbara Scott deputy Chair (Lib). Other members were the Hon. Barry House (Lib), who excused himself from sitting due to other commitments, the Hon. Helen Hodgson (Dem), the Hon. Dexter Davies (Nat), the Hon. Christine Sharp (Greens) substituting for the Hon Cheryl Davenport (ALP), and the Hon. Ljiljana Ravlich (ALP) participating Non-Member. The intention of the Committee "is to canvass primary stakeholders by receiving written submissions on whether the Bill as passed by the Assembly, has satisfied their concerns with the Green Bill, and if not, to indicate their reasons." (Report of the Public Administration Committee, Ninth Report, 1998, p1).

Public hearings were conducted with representatives from the Association of Independent Schools, the Catholic Education Office, the Education Department of Western Australia, the Western Australian State School Teachers Union, WACSSO, Ken Booth and Wayne McGowan from the Department of Education Services. The Bill has two hundred and forty clauses. Written submissions were received for "about sixty clauses. Following the referral to the Committee, submissions were received for a further forty one clauses." (Report of the Public Administration

Committee, Ninth Report, p2). This appeared to be the opportunity for pressure groups to have an even greater influence on the Bill. There was, however, a limitation on the type of amendments which the Committee could hear. "The Standing Orders of the Standing Committee on Public Administration do not enable the Committee to enquire into the principle or policy behind the Bill." (Interim Report of the Committee August, 1998, p2). This restriction may have precluded consideration of many of the recommended amendments from the pressure groups.

After taking the submissions, the Committee prepared a report which was tabled in the Legislative Council on the 29 September 1998 for the Third Reading Debate. There were one hundred and forty recommendations for amendments. During the ensuing debate, the Hon. Derrick Tomlinson noted that,

As a member of the Legislative Council, I certainly received strong submissions from WACSSO, the SSTU,....from various proponents of home education. I recognise in some of the Committee recommendations some of the submissions of these organisations. I also recognise that the Committee did not adopt all of the recommendations of the interest groups (WAPD, Vol 353, 29 September 1998, p4623).

Debate on the matter was resumed on 17 November 1998, and it continued until 2 December 1998, when the legislation was handed back to the Assembly with one hundred and four amendments (WAPD, Vol 353, 2 December 1998, p4627). The Minister refused to accept the amendments and the *West Australian* reported that the Bill is "dead in the water". The Minister said that, "two thirds of the amendments are

unacceptable. They destroyed the Bill which has cost more than a million dollars due to extensive community consultation." He said he would negotiate but if the Legislative Council did not compromise, the Bill would lapse (Burns, *West Australian*, 4 December 1998, p7). By 19 December, the *West Australian* reported that, "a compromise may be about to be reached between Ripper and Barnett who have had 'fruitful discussions'. The Bill so far has taken four years, cost more than one million dollars and has had more than one hundred amendments. The Liberals and Labor have agreed to more than seventy five percent of the Bill." (*West Australian*, 19 December 1999, p26).

The Assembly agreed to thirty two, disagreed with thirty eight, and substituted new amendments for thirty four (WAPD, Vol 356, 17 June 1999, p9199). Most of the substitute amendments went back to the Legislative Council and were finally passed. A surprising loss was amendment number one hundred and two, the proposal to enshrine WACSSO as the peak body for parents. This amendment had very definitely been part of the WACSSO submission, but it was lost by a large margin (WAPD, Vol 3, 9 September 1999, p946). Its loss supports Derrick Tomlinson's claim that the Committee did not recommend all of the suggestions from the pressure groups. Most contentious were the clauses relating to school fees which need to be examined closely to judge the effectiveness of the pressure group activity. The Democrats in the Legislative Council moved to amend Bill to ensure that school fees not be made compulsory (Burns, *West Australian*, 4 December 1998, p7). This was a position advocated by WACSSO. Initially only one faction of the ALP supported this position. When the amendments were sent back to the Legislative Assembly, the

Government voted them down with the support of the Opposition spokesperson for Education, Eric Ripper, who was concerned about a projected shortfall of \$27 million in Education revenue which the Government would not fill. Because WACSSO firmly supported this amendment (transcript of evidence from Standing Committee on Public Administration p 41), this was a move which disappointed WACSSO (Burns, *West Australian*, 4 May 1999, p6). At the ALP Conference, WACSSO forced a debate on the issue reminding the ALP, with whom it could be seen to have Insider Status, of its ideological commitment to 'free education'. The Party Conference is the central policy-making body of the Labor Party (Smith, 1997, p159), and the result of the debate caused the position of Eric Ripper to be defeated, and the Parliamentary Members to be rebuked by their Conference (Burns, *West Australian*, 10 May 1999, p6; Black and Phillips 1999, p583), thus ensuring ALP support in the Legislative Council for the Democrat's amendment. At this point Minister Barnett again threatened to allow the Bill to lapse if the Opposition parties did not negotiate on fees (*West Australian*, 20 August 1999, p6).

An event occurred to change the composition of the Legislative Council and the 'Parliamentary balance' (Black and Phillips, 2000, p247), when the Hon. Mark Nevill MLC, resigned from the Labor Party, and moved to the cross benches. So the nexus was broken when the Bill was returned to the Legislative Council and the Hon. Mark Nevill, having satisfied himself that compulsory fees would not cause disadvantage, nor deny children an education, or force prosecutions, voted with the Government, and allowed the Bill to be finally passed (*West Australian*, 22 September 1999, p9). It is a point of purely academic interest and speculation whether the Minister would

indeed have allowed the Bill to lapse after such a long gestation period and such a large financial cost. As it is, the actions of the pressure group cannot be seen as successful in an area which it held to be very important.

After a very long period of gestation and a two-year Parliamentary life, going back and forth between the Houses, the Bill returned to the Assembly for the last time on 23 September 1999 where it was finally passed (WAPD, Vol 5, 23 September 1999, p1673).

Conclusion: What Influence did the Pressure Groups Exert?

The Western Australian Government's School Education Bill 1999 was a long time in the making. It was initiated by the Hon, Norman Moore MLC in 1994 and was finally passed on the 23 September 1999. It came into being through a long and sometimes difficult process which involved the greatest amount of public consultation in the history of the State's legislature. The process was initiated through a Reference Group chaired by Fred Tubby MLA and it consulted widely with the community groups, legal representatives, educators and members of the public throughout the State to produce a Green Paper. The Green Paper was released for public comment for a period of twelve weeks during which time the Government ran public meetings, set up teleconferences and encouraged submissions. In order that no group or individual would be excluded, the Government distributed booklets to schools which explained the new Bill and which encouraged interested people to make a submission. "It was clear that the lengthy consultation process had provided education interest groups with a chance to mobilise opposition to aspects of the legislation." (Black and Phillips, 1999 p280).

After the submissions were received, the Government produced the School Education Bill and tabled it in November of 1997, the aim being to have the Bill pass into law and to have the associated regulations in place by the beginning of the school year 1999 (Barnett, Consultation Report, October 1997 p10). The Opposition in the Legislative Assembly notified the government of its intention to move many amendments, which it did when the Bill went to the Committee of the Whole. All but

eight were rejected, and the Bill moved up to the Legislative Council, where it was immediately sent to the Legislative Standing Committee for Public Administration. After the return of the Bill to the Council, and the subsequent debate, it passed with one hundred and four amendments from the Legislative Council and returned to the Legislative Assembly.

The consultation was costly both in time and money, especially as the Government encouraged contributions from the whole community. To assess the impact of pressure group activity, it is necessary to return to the framework within which their successes can be measured. The framework relates to three criteria: how effective the specific activities of a pressure group were; why the selected tactics were effective; and at what point or when in the legislative process were they effective. Each of the pressure groups in this case study will be assessed against these criteria.

How Effective were the Specific Activities of the Pressure Groups.

ALSWA (Aboriginal Legal Service of Western Australia) has a formal structure which determines policy, and in addition has a financial base which supports its activities relating to the School Education Bill 1999. ALSWA is funded to protect the interests of Aboriginal people, and is also able to present a united front which makes its efforts effective. It made a written submission in the formal language of the Green Bill, and at the appropriate time, it changed its tactics and lobbied local Members, Opposition Members, and Government Members. It did not use the media. It was invited to present its submission to the Upper House Committee. It worked very

closely with the ALP with whom it has close links (Colleen Haywood, personal communication, 8 November 2000).

DSC, (Disability Services Commission) is a Government Department with a legislated responsibility to the disability community, and has resources for this purpose. It made a formal written submission to the Reference Group, after canvassing opinion within its community. It also made a separate submission which diluted the effectiveness of the first. Not being a recognised pressure group, the DSC did not use the media nor did it lobby any MPs. It was not invited to appear before the Upper House Committee. The Coordinating Response Committee expected that the regulations associated with the Bill would be more relevant to their lobbying activities and they took no further part in the legislative procedure.

HBLN, (Home Based Learning Network) is governed by a constitution and has a committee which authorises group activities. It generates its own income from membership fees and magazine subscriptions, consequently its financial resources are meagre, and its activities were limited by this. Its effectiveness was enhanced by having so many members willing to participate in the consultation process, by attending the public meetings and using the media, both print and electronic. HBLN did not make formal submission to the Reference Group. It lobbied Members directly and as the Bill progressed, it met with the Hon Christine Sharpe, MLC (Greens), a member of the Legislative Council Committee, to present its case. HBLN has Outsider status with both major political parties, and it has a very small membership of two hundred and seventy five which reduces its electoral sway and its effectiveness.

WACSSO, (Western Australian Council of State Schools Organisations) has a responsibility to represent parents to ensure the best education for their children, and a formal structure which allows for the pursuit of this aim. It is funded by subscriptions from affiliates and a Government grant and was able to finance its efforts and sustain its effectiveness through having its campaign spearheaded by one spokesperson and remain consistent. It made a formal written submission to the Reference group, and dealt informally with Members, particularly with the ALP (Ripper letter, 26 August 1998), with whom it has Insider status. It also utilised the media, and attended the public meetings during the Green Paper stage. It represents a very large body of parents and is considered to sometimes have electoral influence.

Why the Selected Tactics were Effective.

The **ALSWA** submission and lobbying were effective with respect to such matters as fines, truancy and disadvantage, by highlighting the implications to the education and justice systems if they were not managed properly. **ALSWA** is an experienced lobby group, and like the **AMA**, previously mentioned, it was able to present the amendments as a matter of community interest. This could be seen by the alteration to the Advisory Panels, both in composition and in methods of operation.

The **DSC** submission brought about small changes yet the effectiveness of its efforts was reduced by a contradictory submission from another area of the Department. The **DSC** represents a very large number of people and has untested electoral

influence, but because it is unused to behaving as a pressure group, and made two different submissions, it lacked the impact a united front may have achieved.

The **HBLN** tactics were extremely effective in the mind of the public and individual Parliamentarians, because it lifted their awareness of the needs of the Home Educators. However, neither major political party adopted the concerns of the HBLN, and its pressure bore little fruit. Indeed, the HBLN says that, in hindsight, they would not bother with the campaign at all, but wait until the legislation was passed and challenge it in the courts (Sue Lang, personal communication, 1 October 2000).

WACSSO was effective because it speaks for a large body of people, and is seen to represent the best interests of those people. Its personal relationships with the members of the Reference Group and the quality of its submission made its campaign effective, however its perceived relationship with the Labor Party may have caused the Government to disregard some of the amendments which WACSSO viewed as very important, namely the issue of fees.

When in the Legislative Process were the Tactics the most Effective.

The **ALSWA** submission called for changes in the fines, a reduction in the punitive aspects of some clauses, changes to the Advisory panels and a greater emphasis on intervention programs to address such matters as truancy. All of the changes in the Bill to these aspects, actually occurred during the Green Bill phase. Some minor

changes to wording happened as a result of recommendations by the Upper House Committee. No other time in the legislative process was effective for ALSWA.

The DSC submission brought some minor changes to the wording of the Bill to make education more inclusive for members of the disability community. There was no further activity from the DSC and therefore this stage has to be seen as the most effective.

The HBLN pressure was the same all the way through the entire progress of the Bill. Minister Barnett, in October 1997, referred to changes to the wording of some clauses in response to HBLN representations, for example, modifying the requirements for HBLN members for inspection. No other changes which HBLN wanted, occurred during the Parliamentary phase, despite a meeting with a member of the Legislative Council Committee. It can be concluded that despite a good media campaign, the most effective point of entry for HBLN was the Consultative phase.

WACSSO worked very hard with the Reference Group during the Consultative phase and brought about many changes which were part of the raft of amendments mentioned in the submission. When the Bill was tabled in the Legislative Assembly, WACSSO did not have any further success with changes over major issues. Evidence of this can be seen in the rejection of the amendment for WACSSO to be seen as the peak body for parent associations, when it so obviously already is in all but name; and also in the prolonged debate which took place over the issue of compulsory fees. This issue was vigorously debated and led to the threat by the Minister to withdraw

the entire legislation if the Upper House did not change its WACSSO-endorsed position. These two examples clearly show that the Consultative stage was the most effective time for the WACSSO amendments to be incorporated in to the Bill.

Conclusion

The School Education Bill 1999 presented an excellent opportunity for a case study because the pressure groups had a greater access to the legislative process, principally due to the Green Paper consultation process and the control of the Legislative Council being in the hands of the Non-Government parties. It was a perfect occasion to gauge when in the legislative process the actions of the pressure groups are the most effective, and which actions of the pressure groups are the most effective.

The evidence shows that the public consultation period brought three hundred and twenty two submissions. The Government asserts that many changes took place between the first draft and the White Paper as a direct result of the public contributions including those from the pressure groups under review. The Government itself referred to the importance of the community contributions, including those of the pressure groups, in letters to WACSSO, to ALSWA, and in the address by Minister Barnett in the Legislative Assembly on October 23 1997.

These alterations and revisions came about after the submissions made during the Green Paper phase. Naturally, they were not confined to the four pressure groups and it is not clear what changes, if any, individuals or other groups requested. It cannot be concluded that the changes, which occurred during this phase, were the direct result of activity from the case study pressure groups alone, but it is reasonable to conclude that the changes were in part, a result of all of the submissions.

To examine the effectiveness of each campaign, it is necessary to begin with the third criteria first. It has been shown that all of the major changes to the legislation were made during the consultation phase before the Bill was tabled in Parliament. Only minor changes occurred during the Parliamentary phase, even though the Legislative Council was not controlled by the Government and the Standing Committee on Public Administration was chaired by a non-Government Member. All changes must be agreed by both Houses and the Government rejected over two thirds of the recommended amendments from the Upper House. Evidence that the Parliamentary phase is not an effective point of entry for a pressure group can be seen by the threat from the Minister to withdraw the legislation rather than make changes with which he did not agree. It can be concluded that the most effective point of entry for pressure group activity is the period before the Bill is tabled in Parliament, when the Government is still learning about the issues and the community concerns.

When the Bill was in the Legislative Assembly, more than one hundred amendments were moved by Government, Opposition and Independent Members, and a mere eight of them were successful. The pressure groups had access to the House through letters and representations to their Local Member or to Opposition Members, and they achieved very little in this Chamber. This was not an effective point of entry for pressure group activity. The Legislative Council, however, at first glance, appeared to be fertile ground for pressure groups in two ways: the first that they could act through representations to the Opposition Parties, which were actively sought, and the second, that they could appear before the Committee for Public Administration,

or they could do both. This phase was successful for the pressure groups to have their recommendations recognised and to have them incorporated into the amendments for debate, but not to be automatically included in the legislation.

Under normal circumstances, an Upper House Committee presents a good opportunity for pressure groups to give evidence on an issue, and have the chance to influence the outcome of legislation. In the case of the School Education Bill 1999, this opportunity was increased by the fact that the Opposition Parties controlled the Legislative Council, and the Standing Committee on Public Administration, which meant more of the recommendations from pressure groups would be likely to succeed. The limitation on the Committee set by its own Standing Orders, meant that some of the amendments could not be considered by the Committee and therefore would not appear as recommendations to the Legislative Council.

At first glance, the change in the composition of the Upper House appeared to be a significant blow to the pressure groups because as has been stated elsewhere, the composition of the Legislative Council seemed to provide a 'window of opportunity' for the pressure groups. It was closed on the day that the Hon. Mark Nevill MLC resigned from the Labor Party and took up his seat on the cross benches as an Independent. Nevill's resignation came at a time when debate was floundering, and Minister Barnett was threatening to withdraw the legislation altogether. It is a moot point whether the Government would have followed this course of action, because Nevill voted with the Government on the difficult issue of increased fees for education, which allowed the legislation to pass. The 'window of opportunity' gave

a false view of the situation. When the facts are analysed, it becomes obvious that most of the amendments from the Standing Committee on Public Administration and the Legislative Council, were rejected by the Government in the Legislative Assembly and would not have passed whether Nevill stayed with the Labor Party or not.

The most effective point of entry into the legislative process is the consultation phase. What tactics were successful and why? The tactics used by the pressure groups have been outlined and each group had varying degree of effectiveness. It is to be expected that a strong, united and experienced pressure group like WACSSO would achieve their aims. It was united, and had a clear idea of its aims. It made strong submissions in the appropriate language, lobbied Members, used the media and attended the community meetings. It was predictably successful, having performed according to accepted pressure group theory. DSC, on the other hand was predictably unsuccessful because it was unused to behaving like a pressure group and it had two contradictory submissions lodged which did not present a united front. Indeed, as a Government instrumentality, it would also have been inappropriate to use the media or attend public meeting, to lobby local Members or work with Opposition parties. It achieved minor changes in more accountability in the appeals process, increased time allowed for the review of a decision, and the inclusion in the consultation over related regulations. HBLN were unpredictably unsuccessful, because it maintained a very high public profile, using the media, both print and electronic, attending and speaking at most of the public meetings and energetically lobbying local Members, and Opposition Members. Its tactics, according to accepted understanding about pressure groups, were considered to be

successful, yet it did not achieve any but the most minor of its demands. Perhaps this was due to the radical nature of the demands, or perhaps it was due to the unpredictability of the process. ALSWA, on the other hand, had success where, according to the theories, there should have been none. It did not attend the public meetings, did not use the media, and it worked with the Opposition. It did make a professional submission, which, alone, is no guarantee of success. ALSWA is a very competent lobby group and its successes in reducing fines and changing matters relating to the Advisory panels, serve to highlight the extreme complexity of the activities of pressure groups.

The conclusions of this thesis are inescapable. The pressure groups in the case study, ALSWA, the DSC, HBLN, and WACSSO were effective during the consultation phase in having some of their needs met through changes to the Draft Bill. This finding supports the opinion of writers like Jeansch and Zeigler who believe that Government policy is already set when the Bill is tabled, and legislation is only able to be modified in the pre-Parliamentary stage. This accords with pressure group theory as mentioned in Chapter One of this thesis, with respect to the most effective entry point. The analysis shows that there is no set of tactics guaranteed to bring success, and no course of action which can be recommended for other pressure groups. However, such is the complexity of pressure group action that the successes achieved by the four pressure groups highlight the difficulty of making predictions related to their tactics.

The Government encouraged public consultation and accepted contributions in some areas and made amendments in those areas, for example, the fines and penalties were halved, for which the ALSWA and WACSSO could conceivably claim success, yet the words of the Minister to the meeting in Narrogin undermine this. He said: "The fine was included to gauge community feelings", which leads to the conclusion that the Government was anticipating a reduction in the fines, so their decrease may not have been a result of pressure group action. This gives rise to speculation that all of the requests for major changes were expected by the Government, and they were not brought about by the action of pressure groups. There were some areas which were significant to the pressure groups, namely compulsory fees for Primary and Secondary Schools, over which the Government would not move, and was apparently prepared to sacrifice the Bill and which was only resolved with the move to the cross benches of an Opposition member.

It is the conclusion of this thesis that the pressure groups in this study did cause change in the School Education Bill 1999, but in a minor way. They did not wield an undue influence, and they did not force any significant change which the Government was not already prepared to make.

APPENDIX

Chronology of Events

- 1994 – 1996** Education Act Review Project develops the draft legislation;
- 1997** 19 June, Green Paper released for public consultation.
23 October, a consultation report outlining the major areas of feedback was released by the Minister
26 November, the amended School Education Bill 1997 introduced into the Legislative Assembly;
- 1998** 23 June, the amended bill passes the Legislative Assembly
30 June, the amended bill introduced to the Legislative Council and referred to the Standing Committee on Public Administration.
29 September, Standing Committee on Public Administration reports its recommendations to the Legislative Council with a detailed schedule of amendments, tabled on 26 October.
11 November, debate resumed on the bill.
2 December, amended bill passes the Legislative Council with 104 amendments, and returned to the Legislative Assembly.
- 1999** 22 April, the Legislative Assembly considers and returns bill to the Legislative Council with a message that thirty two amendments were accepted, thirty eight rejected, and forty three subject to substitute amendments.
9 – 21 September, the Legislative Council further debated the Assembly's response and made four further amendments.
23 September, the Assembly completed consideration of the bill accepting the Council's four amendments, thereby concluding debate.
2 November, Royal Assent received.

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